

Michael R. Brown, Chairman
Kevin S. Carter, Director

MINUTES OF THE MEETING OF THE
SCHOOL & INSTITUTIONAL TRUST LANDS ADMINISTRATION
BOARD OF TRUSTEES

DATE: AUGUST 18, 2011

PLACE: SALT LAKE CITY, UTAH

ATTENDING: BOARD

Michael R. Brown
David Ure
Louis Cononelos
James Lekas

STAFF

Kevin S. Carter
Lisa Schneider
John Andrews
NormaLee McMichael
Doug Buchi
Ron Carlson
LaVonne Garrison
Wendy Petersen
John Andrews
Dave Hebertson
Tom Faddies
Lynda Belnap
Nannette Johnson

OTHERS IN ATTENDANCE

Margaret Bird, State Office of Education
Tim Donaldson, State Office of Education
Martell Menlove, State Office of Education
Paula Plant, State Office of Education
Tyler Slack, Utah PTA

INDEX

<u>ITEM</u>	<u>PAGE NO.</u>
1. Swearing in of New Board Member	3
2. Approval of Minutes	3
3. Confirmation of Upcoming Meeting Dates	3
4. Chairman's Report	
a. Beneficiary Report	4
b. Consideration/Approval of Policy 2011-01- - Ongoing Review of Transactions Requiring Board Approval	4
c. Consideration/Approval of FY 2013 Budget	6
5. Director's Report	
a. Director's Update on Issues	
I. Trust Lands Administration Video	9
b. Associate Director's Report	
I. County Land Bills and Public Lands Discussion	9
II. Proposed Resolution on WSLCA Selections Legislation	11
6. Consent Calendar	
a. Development Lease Modification – Sun River - - Washington Co.	14
Notification	
b. Fee Waiver Report	14
7. Director's Performance Review	15

Chairman Brown called the meeting to order and welcomed Board members, staff, and guests. He expressed appreciation for staff at SITLA and the effort that goes into preparing for each Board meeting. Board Members Steve Ostler, Dan Lofgren, and Michael Mower were excused from today's Board meeting.

1. Welcome and Swearing in of New Board Member

Chairman Brown issued the oath of office for Mr. James M. Lekas. Chairman Brown welcomed Mr. Lekas as a Board Member. He noted Mr. Lekas will be the Chair of the Oil and Gas Committee.

2. Approval of Minutes

The Board approved the minutes of June 9, 2011.

Ure/Cononelos. Unanimously approved.

"I move that we approve the Board minutes of June 9, 2011."

Roll Call:

Mr. Ure - - yes	Mr. Cononelos - - yes
Mr. Lekas - - yes	Mr. Brown - -yes

3. Confirmation of Upcoming Meeting Dates

The Board, without motion, approved the following upcoming meeting dates:

September 8 - - Salt Lake City
October 12 - - Tour of West Utah Lake
October 13 - - Salt Lake City
November 17 - - Salt Lake City
December -- No Meeting

Next year's annual schedule for meetings will be considered at the October or November Board meeting. Mr. Lekas has a conflict with the Board meeting on September 8.

4. Chairman's Report

a. Beneficiary Report

Margaret Bird reviewed slides in a PowerPoint presentation entitled "*Trust Lands Across the West*," which provided a FY 2010 snapshot of trust lands in 20 states. Ms. Bird noted that, when the education family began in the 1980's, it was known that the trust lands could be managed more efficiently. There were also conflicts of interest when the agency was in the Department of Natural Resources. The value of Utah's Permanent Fund was \$18 million, and the lands were making about \$5 – 8 million per year. We were pretty much the poster child as to how not to manage the lands. She thinks the Board will be very pleased to now see this report. The presentation included comparisons to other states in the western U.S. Ms. Bird closed by expressing gratitude on behalf of those in Education and the children who benefit from the growth of trust lands.

Director Carter noted that, from his experience, one message that has gotten out is that we are "trust lands" and not public lands. Mr. Connelos questioned whether the people in the schools understand the impact of the monies they receive. He wonders if something like this or something similar could be part of a faculty meeting, etc. He is not disputing that people understand what trust lands are, but he doesn't feel they understand the impact on the schools. Ms. Bird felt like this was an excellent idea. They will work on this in the next few months and bring it back to the Board for their input. Mr. Ure suggested that possibly we need to go further and also teach what has happened to us and trust lands through the environmental movements, etc. He believes many teachers are becoming more "environmental" all the time, and they may not realize how the trust lands impact them personally. Ms. Bird noted that she feels this agency has also been very important in dealing responsibly with environmentally sensitive lands. She felt like the Board had given her some great suggestions, and they will work on a presentation to incorporate these ideas. Chairman Brown suggested that those who represent industry could hire some people into their organizations so that student interns can learn from a business and not just talk about it in the schools.

Chairman Brown thanked Ms. Bird for this presentation.

b. Consideration/Approval of Policy 2011-01 - - Ongoing Review of Transactions
Requiring Board Approval

Chairman Brown reminded Board members that this policy was brought as a draft at our last meeting. Director Carter reviewed the proposal policy with the Board. These reviews will be handled on the Consent Calendar. The proposed policy is as follows:

4. Chairman's Report (cont'd)

b. Consideration/Approval of Policy 2011-01 - - Outgoing Review of Transactions
Requiring Board Approval (cont'd)

*The Board of Trustees
of the
School and Institutional Trust Lands Administration*

☒ *New Policy* ☐ *Amends Policy No. _____* ☐ *Repeals Policy No. ____*

Policy Statement No. 2011-01

*Subject: Ongoing Review of Transactions
Requiring Board Approval*

The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on August 18, 2011, and by majority vote declared the following to be an official policy of the Board.

In furtherance of legislative direction established under Sections 53C-1-201(5)(a) and 53C-1-204(1)(a) of the School and Institutional Trust Lands Management Act, the Board of Trustees ("Board") believes it is desirable and prudent to establish a policy governing the procedure for oversight of transactions which normally require Board approval.

1. The administration shall provide the Board with updates on transactions that have been approved by the Board approximately six months after such review or approval, unless a different review period is provided by the Board at the time of approval.
2. Unless otherwise directed by the Chairman, these reviews shall be included on the Board's Consent Calendar.
3. Ongoing status reviews of pertinent transactions shall be established during the first update.

The Board approved Policy 2011-01.

Cononelos/Ure. Unanimously approved.

"I move that we adopt this policy."

Roll Call:

Mr. Ure - - yes Mr. Cononelos - - yes
Mr. Lekas - - yes Mr. Brown - -yes

nj

8/18/11

4. Chairman's Report (cont'd)

b. Consideration/Approval of Policy 2011-01 - - Outgoing Review of Transactions
Requiring Board Approval (cont'd)

Mr. Ure indicated he worries that, since these items will be on the Consent Calendar, possibly the Board members will not remember why the item is there. If there were some small paragraph of discussion, he thinks it would help the Board members know what it is about. Is there some way to designate this on the Consent Calendar? Director Carter suggested that another category be added to the Consent Calendar that would show these items are being returned for Board review. The Board felt this was a good way to handle this.

c. Consideration/Approval of FY 2013 Budget

Director Carter reviewed the budget process to include the timeline associated with the budget presentation for FY 2013 as follows:

- FY 2013 Board approves budget - August - 2011
- Budget submitted to GOPB & LFA - September 2011
- Budget conference with Governor - Fall 2011
- Governor submits budget - Winter 2011
- Appropriations Sub-committee - Jan/Feb 2012
- Legislature adopts budget - March 2012
- Board reviews working budget - May 2012
- Fiscal year begins - July 2012
- Money discussed today is last spent - June 2013!

Director Carter presented the proposed budget as follows:

- One-time requests
 - \$300,000 to execute Recreation Exchange
 - \$46,300 to continue county-road program
- Base Budget Increase
 - \$90,000 for FTE in Oil and Gas Group
- Capital Expenditure
 - Status quo

SITLA has two lines of adopted budget

- Operations
- Expenditures

The agency cannot move money between line items.

nj

8/18/11

4. Chairman's Report (cont'd)

c. Consideration/Approval of FY 2013 Budget (cont'd)

Chairman Brown asked if we budgeted for staff salary increases. Director Carter stated the legislature does not allow an agency to budget for personnel increases. We have the base personnel costs in our budget. If the legislature appropriates a COLA or merit, they put that much money into each agency's personnel costs.

Chairman Brown noted he thinks the Board is becoming more and more concerned about what happened on bonuses a few years ago. We may be falling behind on appropriate compensation now. What can the Board do to make sure we are keeping up with other organizations and comparables?

Director Carter stated this is a complicated question. We have established salary ranges for our AS (at-will) employees. Merit employees are the traditional "tenured" employees. Almost all our professional employees are at-will. The AS employees are compensated within a salary range set by the Board. The Director's compensation is set by the Board. Merit employees have a range that is set by DHRM. The Director can pay AS and merit employees within the ranges set for their positions. The majority of our professional staff is not at the top of their range. Ms. Schneider defined how the base budget would have to be expanded or funds shifted to identify how increases would be funded.

Ms. Bird asked how long it has been since the Board looked at those ranges? Director Carter stated the entire salary structure is presented to them every time we create a new AS position. The Board has seen the information, but has not dealt with it for years.

Chairman Brown stated he appreciates the sensitivity of the issue, but is also adamant about people being compensated fairly as to what the market demands. He really wants to make sure before he leaves the Board that people are being fairly compensated for their contributions. He thinks all have suffered a loss of salary that is deserved. He would like the Board to think about this and what needs to be done to make sure people are being paid what they deserve, especially since the Director is authorized to make changes.

Mr. Ure noted that he feels the Board has had many changes since this happened, and we might need a "school day" on the issues involved before we look at it further. Chairman Brown noted he has had a heart-felt discussion with others regarding this issue, and it is very important that we get this right. The organization is very valuable, and the people who manage it are very important.

Director Carter stated the other component of compensation that is provided for in our statute is the bonus program, an authority given to the Board. These monies had to be appropriated. The legislature made this appropriation for about 10 years, and a few years ago the bonus program

nj

8/18/11

Page No. 7

4. Chairman's Report (cont'd)

c. Consideration/Approval of FY 2013 Budget (cont'd)

came under critical scrutiny. Therefore, the Board has not asked for those monies. One of the reasons we have exercised caution in conjunction in this area is that, when our appropriations subcommittee presented its budget to the Executive Appropriations Committee, there was discussion to "watch" this agency to make sure they didn't just increase salaries to replace the bonuses. Because of that, we have been very cautious.

Director Carter continued with the discussion of the proposed budget. We divide things up into direct expenses and allocated expenses. The direct expenses are to the four working groups. Allocated expenses are the other expenses that "support groups" spend to support the four working groups. We review this allocation periodically to make sure the breakdown is appropriate.

Mr. Cononelos asked if there were staff losses due to compensation issues. Director Carter reported that the Legal area may have had employee losses due to compensation being more desirable in the private sector. Chairman Brown expressed a desire to see that people are fairly compensated. He asked the Board members to think about this issue and consider how to address matters of attrition and loss through unfair compensation.

Chairman Brown again expressed how well managed the agency is and gave credit to Director Carter for his efforts to bring the organization as far as it has come in recent years.

In the proposal for this year, a new staff position for Oil and Gas is requested. Ms. Garrison presented justification for the request for a new position by explaining the increasing number of wells at 200-300 a year managed by two resource specialists. The two resource specialists can no longer keep up with the workload. These two individuals are on the road a lot. The road trips are time consuming. More wells are anticipated by the end of the year. It is likely that new wells being drilled will be in the hundreds. There is also a need in time-consuming projects in land, which this position can also provide assistance.

Director Carter continued with the budget presentation, indicating there are no changes requested for the Capital Expenses. In FY 2011, we had a \$12 million capital budget. This year we have \$8.8 million. Everything we don't spend by the end of the fiscal year goes back to the beneficiaries. Funds were returned to the beneficiaries at the end of FY 2011. The funds were returned primarily due to the real-estate market and the decision that spending was not an efficient use of the funds at that time. Director Carter explained that the funds are in an interest-bearing account until spent. The dollars are still working for schools in the form of interest until spent.

4. Chairman's Report (cont'd)

c. Consideration/Approval of FY 2013 Budget (cont'd)

Doug Buchi explained the advantage of having those funds available. If an opportunity for best use of those funds arises, we need timely access to the funds to complete an efficient and effective expenditure. Requesting the funds through the budget process, when a need is identified, is not a timely method of accessing funds. Coral Canyon is an example of how beneficial it is to have funds available when they are needed.

Director Carter noted that one of the things we have been able to offer employees is a good benefit package. That has been eroded somewhat. That benefit package used to help compensate for smaller salaries. Ms. Bird asked that, before we approve this budget, could we have the "school day" discussion. Can the Board hold off on this until its next Board meeting? Ms. Bird asked if the Board should think about making the dollar amount higher for the new hire in Oil and Gas.

Chairman Brown noted that there are people in the Oil and Gas Group and the Mining Group who can retire soon. We have a problem with losing staff and a retention problem with salaries. Mr. Cononelos stated he appreciated the position the Oil and Gas people are in. He thanked Director Carter and the entire staff for their professionalism. The Mining Committee had a meeting this morning and have a similar concern. Based upon the up-kick in the mining business, he thinks it is prudent to add an additional FTE to the Mining Group. He thinks it would be in the range of \$85,000-\$100,000 per year. He thinks it is very necessary to do this and try to get this person on board after July 2012. Director Carter stated that in the Mining Group they have an Assistant Director, one Deputy Assistant Director, and two Trust Lands Resource Specialists. This request would add another Trust Lands Resource Specialist. He noted that he had imposed upon Ms. Garrison a requirement to justify why she needed another position. He has not been able to discuss this with Mr. Faddies.

Chairman Brown asked that, if the Board were to ask staff to look at these issues before the next Board meeting, would it be okay? Director Carter stated he thinks the Governor's Office of Planning and Budget will be asking for the budget before then.

Director Carter noted that now our capital improvement budget is \$8.8 million. It has two components - - \$8.3 million is used for development and \$500,000 for block management and other purposes. The capital account has its origin as a range-management account. We used that money to invest in range-improvement projects. When the legislature split our budget items into two line items, it included improvements, etc., in the capital budget. Since the line is entitled "capital improvements," it is difficult to justify a stewardship as a capital improvement. He would like the Board's permission to try to find a way to resolve that problem. He would like to explore this more. The Board, without motion, approved this request from the Director. The Board elected to delay a decision on the budget until further discussion next month.

nj

8/18/11

5. Director's Report

a. Director's Update on Issues

I. Trust Lands Administration Video

Director Carter provided a presentation of the new Trust Lands video "Earning for Education." Dave Hebertson was recognized by the Board for his hard work in creating this useful tool which is currently being distributed to school teachers and Community Council leaders as a mechanism for better understanding of the use of trust lands for the benefit to Utah schools.

b. Associate Director's Report

I. County Land Bills and Public Lands Discussion

Mr. Andrews handed out the Interior Department's decision to place the wildlands decision in abeyance. They have not entirely killed it, but put it away for a while. This is the most significant thing that has happened since the Board met last.

In the aftermath of Congressman Bishop's success in defending the wildland issue, Secretary Salazar made a request to state governors to give some input on finding some common ground on wildland issues. We are going to send a letter to the Secretary stating the Board's policy on this and expressing our willingness to discuss it with them. If the Board has any other input as to what we should include, please let Mr. Andrews know.

Since the Board met last, there has been some confusion created as to how county land bills will move forward. Piute, Emery, and San Juan Counties have been engaging in discussions with wilderness groups to try to come up with an approach to designate wilderness and get those lands they are not designating released for general multiple-use management. Those processes were moving forward until Senator Lee indicated that he wanted legislative input and approval of those county bills before he would be willing to support legislation. Confusion has arisen because we don't know if Senator Lee was asking for endorsement of the process or actual legislative approval of the lands that are proposed. The legislature has since weighed in as to what they would like to see. Some of the requests are that the legislature actually approve the lands, and some say there should be legislative approval of any expansion of the 1.9 million acres recommended in 1991. If this is the case, the county bills will actually die.

Where that leaves us is that we have been working with the counties to identify land targets to implement the Board's policy of getting the lands out. We have been looking for replacement lands. In Emery and San Juan Counties, we think there is a way to "trade up" in lands. In some of the wilderness areas, there is no significant mineral resource; but some lands outside do have mineral value. We might be able to acquire them.

nj

8/18/11

Page No. 10

5. Director's Report (cont'd)

b. Associate Director's Report (cont'd)

I. County Land Bills and Public Lands Discussion (cont'd)

Right now things appear to have come to a halt while the legislature figures out what it wants to do. There was a meeting this morning of the Constitutional Defense Council, and they discussed this issue. The Governor, Representative Noel, and others are going to get together and talk through these issues to try to find some common ground. On the U.S. Senate side, Senator Lee wants to see if the legislature is stepping in before moving forward. We may see county land bills discussed and legislation introduced in the House, but nothing is really happening. We will have issues with valuation.

Other public land issues that the Board should be aware of concern the Army Corp of Engineers (ACOE). This has been worrisome to us. The ACOE has decided it feels it can and should regulate as waters of the U.S. dry and ephemeral washes. There is law out of Arizona that stated that, if the Corp does regulate it, it will not only look at the affect on the dry wash, but the affect on the entire development. This places Fish and Wildlife Services (FWS) into the picture for consultation through the FLMPA process.

We joined with the Department of Transportation to appeal several ACOE actions on the Southern Parkway across school trust lands. The Corp stated they were taking enforcement actions against us on part of the lands there. We successfully appealed this and also got a determination regarding dry washes on the Southern Corridor. They have now determined that the Virgin River is a traditional navigable water. Previously, regulation would be based on a nexus of navigable waters. This now states that any dry wash is subject to navigability. This will be a big issue for us in Washington County and other places.

II. Proposed Resolution on WSLCA Selections Legislation

Mr. Andrews addressed the resolution dealing with the proposed legislation that the Western States Land Commissioners Association is promoting. Utah, like many of the other school trust entities, has land that has been stuck within wilderness study areas, national monuments, etc., for decades. This legislation is an attempt to level the playing field a little bit by giving the state the right rather than a discretionary opportunity to relinquish lands within WSA's and select replacement lands, according to a time table, outside of those areas.

We have been working for about a year with a variety of other western states. Congressman Bishop is eager to continue introducing this legislation. We actually have been able to get some buy-in from not only some of the Democratic members of western states, but actually some from the environmental community who would like to see us getting out of WSA's and selecting other lands.

nj

8/18/11

Page No. 11

5. Director's Report (cont'd)

b. Associate Director's Report (cont'd)

II. Proposed Resolution on WSLCA Selections Legislation (cont'd)

At this point what we are trying to do is assemble a package of resolutions, letters of support, etc. The Board has been hearing about this for the last couple of years. We wanted to actually get something on paper that we could use as part of our packet as we are beginning our congressional progress.

Ms. Bird suggested some changes. Mr. Andrews highlighted those on the handout. The changes are noting that we are not just state trust lands, but school and institutional trust lands. The resolution is pretty simple. It says that the Board is supportive of what the Association has been trying to do.

Chairman Brown asked the Board members if there are any questions about the resolution. Mr. Lekas asked when you exchange out a parcel of land, does the fact that the original land grant provided it with any special status that allows for public entry even though there is some kind of conservation designation? Or, does it lose that when we take a dead to another parcel of land.

Mr. Andrews stated that generally, you would lose that because the land would become federal. It would be subject to any valid existing right. If there were a county road, that would remain a valid existing right. The issue of unperfected RS 2477 roads probably is something of an issue. In general, that would go away unless the rights were perfected during the time the state owned the property. In connection with the Grand Staircase Exchange, we conveyed land to the United States, and there were roads on those. The question was, what are the rights to use those roads after the trade? If the road had been perfected as an RS2477 road before the state originally got title, it was an RS 2477 road. If the county had maintained it even during state ownership, it was a valid existing right. However, if the county had not actually maintained the road prior to the exchange or sought to get an easement the US was able to declare the roads closed.

Mr. Cononelos stated he understands abeyance to mean hibernation; and, once we have the political will and the muscle, we are going to pursue this policy again. It is simply a way to circumvent Congress and the state to create wilderness. The state of Utah joined in the law suit, as did the state of Alaska. Did Idaho and Wyoming join? There was a previous discussion as to whether we would join. That decision has not been made. If we don't join, therefore, have we lost standing because we are in essence a separate entity from the state of Utah; and, if we do not get engaged in the suit, do we not, in fact, lose legal standing.

Mr. Andrews indicated he does not believe we will lose legal standing. The state of Utah is a hybrid entity, but we are a state agency. By statute, the Attorney General is our legal representative. We have been able to relay the state's representation of our interest both legally

nj

8/18/11

Page No. 12

5. Director's Report (cont'd)

b. Associate Director's Report (cont'd)

II. Proposed Resolution on WSLCA Selections Legislation (cont'd)

WHEREAS, after extensive consultation among the WSLCA and its member states, including substantial input from the School & Institutional Trust Lands Administration, specific proposed legislation has been developed that would permit such selections;

NOW THEREFORE, BE IT RESOLVED THAT the Board of Trustees of the Utah School and Institutional Trust Lands Administration does hereby support and endorse the passage of the proposed legislation as presented to the membership of the WSLCA, and requests that the members of the Utah congressional delegation take all necessary actions to ensure the timely enactment of the proposed legislation into federal law.

Approved this 18th day of August, 2011.

Ure/Cononelos. Unanimously approved.

"I move that we approve the resolution."

Roll Call:

Mr. Ure - - yes

Mr. Cononelos - - yes

Mr. Lekas - - yes

Mr. Brown - - yes

6. Consent Calendar

a. Development Lease Modification – Sun River - - Washington Co.

There were no comments on this item, so it is approved.

Notification:

b. Fee Waiver Report

This was for notification to the Board. There were no comments.

nj

8/18/11

Page No. 14

7. Director's Performance Review

The Board went into closed session at 3:45 p.m.

Ure/Cononelos. Unanimously approved.

"I move we go into closed session for the purpose of discussing the character and competence of an individual and the discussion of proprietary information."

Roll Call:

Mr. Ure - - yes	Mr. Cononelos - - yes
Mr. Lekas - - yes	Mr. Brown - -yes

Those in attendance for closed session were Board members, Kevin Carter, Margaret Bird, Martell Menlove, and Tim Donaldson. Mr. Menlove returned to open session at 4:30 p.m. Mr. Carter, Ms. Bird, and Mr. Donaldson returned to open session at 4:45.

Upon motion by Mr. Ure and seconded by Mr. Lekas, the Board returned to open session at 4:50 p.m.

Upon motion by Mr. Ure, seconded by Mr. Cononelos, the Board adjourned at 4:51 p.m.